

CITY OF GARDEN GROVE

INTER-DEPARTMENT MEMORANDUM

To: Matthew J. Fertal
Dept: City Manager
Subject: ORDINANCES ESTABLISHING
REGISTRATION PROCESS FOR
EXISTING MEDICAL MARIJUANA
DISPENSARIES

From: Susan Emery
Dept: Community Development
Date: July 19, 2011

OBJECTIVE

The adoption of an urgency ordinance and introduction and first reading of a separate ordinance establishing a cut-off date and registration process for potential eligibility of existing medical marijuana dispensaries for future permits to operate in the City.

BACKGROUND

In 2008, the City Council enacted a ban on medical marijuana dispensaries in the City. The ordinance was, in part, developed based on the City of Anaheim's ban, which, at that point, had been upheld by the Orange County Superior Court. Subsequently, the Court of Appeal in Santa Ana overturned the Superior Court ruling upholding Anaheim's ordinance and sent the matter back to the Superior Court for additional proceedings. In its opinion, the Court of Appeal indicated that it may ultimately invalidate the Anaheim ordinance, but did not do so at that time.

At the same time, the cities of Lake Forest, Dana Point and Costa Mesa, among others, have spent substantial sums of money in efforts to eliminate medical marijuana dispensaries in their communities. While these cities have had some success in the Superior Court, the Court of Appeal has stayed those rulings, effectively allowing these dispensaries to continue in operation pending resolution of appeals of the Superior Court rulings.

During this period of time, numerous dispensaries have commenced operations in Garden Grove despite specific notification to each known dispensary from the City that such operations are in violation of City regulations.

DISCUSSION

Staff is proposing an alternative approach to the current ban on medical marijuana dispensaries. The initial approach would be to adopt the attached ordinances establishing a registration process for medical marijuana dispensary eligibility to potentially obtain operating permits, provided that these operations comply with City zoning and regulatory ordinances to be processed within the near future and comply with the requirements of the State's Compassionate Use Act, Medical Marijuana Program Act and the Attorney General's Medical Marijuana Guidelines. Only

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operations existing on or prior to June 30, 2011, will be potentially eligible for such permits.

The proposed process would allow existing operations to submit registration applications to establish that these facilities were in fact operating in the City as of June 30, 2011. The operations that meet this requirement will subsequently be eligible to apply for operating permits under the zoning and regulatory ordinances that staff will soon present for processing. Medical marijuana facilities that cannot establish that they were existing operations in the City as of June 30, 2011, will not be eligible.

The City will publish notice of a period not less than 30 days in length for the registration process. The notice will also be published on the City's website.

The proposed ordinances establish the cut-off date and registration eligibility process. These ordinances do not bind the City Council in any way with regard to action on the proposed zoning and regulatory ordinances being developed by Staff. The urgency ordinance is being presented to allow the registration process to become effective immediately. The only difference between the urgency ordinance and the regular ordinance are the findings necessary for adoption of an urgency ordinance.

FINANCIAL IMPACT

None.

RECOMMENDATION

It is recommended that the City Council:

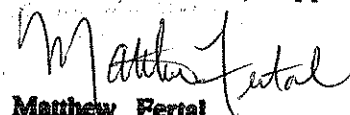
- Adopt the attached Urgency Ordinance establishing the cut-off date and registration process for existing medical marijuana dispensary operations; and
- Introduce and conduct the first reading of the attached Regular Ordinance establishing the cut-off date and registration process for existing medical marijuana dispensary operations.



SUSAN EMERY
Community Development Director

Attachment 1: Urgency Ordinance
Attachment 2: Regular Ordinance

Recommended for Approval



Matthew Ferial
City Manager